lating the sale of "distilled spirits or wines", *United States* v. *Stubblefield* (D. C.), 40 Fed. 454. Second, the reasonable possibility of using the "medicine" as a beverage, with resulting intoxication, has been taken as the standard by some courts; *Carl* v. *State,* 89 Ala. 93, 8 So. 156; *Davis* v. *State,* 50 Ark. 17, 6 S. W. 388; *In re Intoxicating Liquors,* 25 Kan. 751, 37 Am. Rep. 284; *James* v. *State,* 21 Tex. App. 353, 17 S. W. 422. Third, some courts, in accord with the principal case, and with what would seem the better reason, have made the intention of the seller, acting in good faith, the criterion by which to judge the legality of the sale. *Bertrand* v. *State,* 73 Miss. 51, 18 So. 545; *Russell* v. *Sloan,* 33 Vt. 656; contra, *Compton* v. *State,* 95 Ala. 25, 11 So. 69. Where this third standard is adopted, the question of what the seller's intention was, is for the jury. *State* v. *Huff,* 76 Ia. 200, 40 N. W. 720; *Owens* v. *People,* 56 Ill. App. 569; *Brooks* v. *State,* 65 Miss. 445 4 So. 343.

JUDGES—LIABILITY OF INFERIOR MAGISTRATES ACTING UNDER VOID STATUTE.—A municipal court, having inferior jurisdiction but given general cognizance of violations of municipal ordinances, tried and committed a cabman for violation of a city licensing ordinance, which was afterwards found to be void through non-compliance, by the council, with the statutory formalities. *Held,* in an action for false imprisonment, that neither the judge nor the arresting officer is liable because of want of jurisdiction. *Rush* v. *Buckley et al.* and *Rush* v. *Fairfield et al.* (1905), — Me. —, 61 Atl. Rep. 774.

The question is discussed in 3 MICHIGAN LAW REV. 486, in connection with the case of *Gilbert* v. *Satterlee* (1905), 91 N. Y. Suppl. 960, which is exactly in point, except that there the question of validity was raised on the trial, while here it was overlooked until afterwards. Previous decisions in Maine had held such magistrates and officers liable. In *Warren* v. *Kelly,* (1888), 80 Me. 512, the liability was even extended to a court of general jurisdiction proceeding in an action in rem, that remedy in such a case having been subsequently declared unconstitutional. This rule was formerly general, at least as to inferior magistrates. *Kelly* v. *Bemis,* 4 Gray 83. But the rule of immunity for action in good faith under a void statute, applied first to courts of superior jurisdiction (*Randall* v. *Brigham,* 7 Wall. 523; *Bradley* v. *Fisher,* 13 Wall. 335), has recently been extended to the inferior magistrate, provided only that the case in which he acted was one of a class of which he has general jurisdiction. His general and exclusive jurisdiction of causes of a certain class puts him, it is held, in relation to such causes in the position of a superior court, and he is entitled to the same immunities, *Henke* v. *McCord,* 55 Ia. 378. Most recent decisions take this view.

LANDLORD AND TENANT—LEASE—STIPULATIONS AS TO PAYMENT OF TAXES. —CONSTRUCTION.—The lessor stipulated in the lease to "save the lessee harmless from all taxes levied upon said premises." This covenant was preceded by a description of the land, a reservation of rent, an agreement giving the lessee a conditional right to purchase the premises, and one giving him a right to erect buildings thereon, which should be his personal property, and subject to removal

at the termination of the lease. The lessor paid the taxes levied on the premises and the buildings erected thereon by the lessee and now sues to recover from the lessee the portion of the tax assessed on the value represented by the buildings. *Held,* that he could recover. *Phinney* v. *Foster* (1905), — Mass. —, 75 N. E. Rep. 103.

The majority of the court arrive at their conclusion that the lessor had not assumed liability for the taxes assessed on the property as the result of its increased value by construing the words "said premises" to mean merely the land as leased. Their construction is clearly correct in view of the clause preceding the stipulation, in which the lessee was given a conditional right to exercise certain options for the purchase of "said premises". See *Watson* v. *Home,* 7 B. & C. 285. The same conclusion is indicated by the clearly expressed intent of the parties. The buildings to be erected were to be personalty not realty and were to belong to and be removable by the lessee. It is clear that they were not contemplated as part of the "premises" on which the lessor was to pay the taxes. *Parker* v. *Redfield,* 10 Conn. 490. *East Tenn. V. & G. Ry. Co.* v. *Mayor of Morristown et al.,* 35 S. W. 771. Again, as pointed out in the opinion, no restriction was imposed on the value or cost of the buildings to be erected, and the taxes on them might equal or exceed the whole rental. In this case, the buildings were for amusement purposes and were about equal in value to the premises of the lessor. By statute in Mass., real estate for the purpose of taxation includes buildings thereon, regardless of the agreement of owners. The tax was assessed on the property as a whole, land and buildings, and in strictness there had been no tax on the buildings as such, although, by statute, assessors were required to make a table containing the value of real estate assessed, specifying the value of buildings exclusive of the land. A lien for the whole tax existed, therefore, upon the whole property. *Milligan* v. *Drury,* 130 Mass. 428; *McGee* v. *Salem,* 149 Mass. 238, 21 N. E. 386. There was no personal liability on the part of the lessee to pay anything to the collector and the lessor could not release his own property by paying a part of the tax, so that he was forced to pay the whole or allow the property, land and buildings, to be sold. It is true that one cannot make himself the creditor of another by voluntarily paying the debt of the latter without his request, but in this case the lessor was compelled to pay money which another was under a legal obligation to pay. In such case the law implies a request by the person relieved and the person paying may recover from him. See Notes to *Lampleigh* v. *Brathwait,* 1 SMITH'S LEAD. Cases 141 (Eleventh Ed.).

MASTER AND SERVANT—BREACH OF EMPLOYER'S LIABILITY ACT—ASSUMED RISK.—A statute of Indiana imposes certain specific duties on mine owners for the protection of miners. *Held,* that the danger arising from noncompliance with the statute was not assumed by an employee because of his knowledge that the statute was being violated. *Indiana & C. Coal Company* v. *Neal* (1905), — Ind. —, 75 N. E. Rep. 295.

There is much authority for the position taken in this case. *Narramore* v. *Railway Co.,* 96 Fed. 298, 37 C. C. A. 499, 48 L. R. A. 68. However, the